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C O N F I D E N T I A L SEOUL 003191

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SUBJECT: COURT RULINGS UNDERMINE LEGAL PROGRESS IN FIGHTING SEXUAL HARASSMENT

Classified By: POL Joseph Y. Yun. Reasons 1.4 (b,d).

¶1. (C) Summary: The ROKG has made some progress in addressing sexual harassment, but recent court rulings overturning convictions point to an underlying cultural tolerance for demeaning behavior toward women in the workplace. Ironically, a number of convictions were reversed after the complainant or other female coworkers lobbied on the perpetrator's behalf. Despite the increasing number of women in the workforce, Korea's gender empowerment measure (GEM) rank - measuring women's economic and political participation and power over economic resources -- is the second lowest among OECD countries, outranking only Turkey. Progress on gender equality issues is a slow but necessary process as Korea struggles to cope with its shrinking population and solidify its advanced nation status. End Summary.

A BRIEF HISTORY

¶2. (SBU) Korea passed its first law guaranteeing equal employment in 1987. The Sexual Equality Employment Act described the responsibility of employers to prevent sexual harassment. In 1993 a female student working as a teaching assistant at Seoul National University won the first case in Korea that recognized sexual discrimination as a human rights violation. This case helped shed light on sexual harassment as a social issue, but the law lagged behind. In 1999, the National Assembly passed the Gender Discrimination Prevention and Relief Act, which defined sexual harassment as sexual humiliation or threatening to penalize employees for refusing to comply with sexual demands. However, the Korean government stipulates in the guidelines issued to explain the law that in order to have grounds for a case, the victim must provide "sufficient proof that the behavior in question has had a negative effect on his or her working conditions."

¶3. (SBU) In 2005 the Korean Government established the National Human Rights Commission of Korea (NHRCK) to provide a mechanism to investigate and remedy sexual harassment complaints. The Commission received 226 complaints since 2005, and in October NHRCK issued its highest ever recommendation for damages of 30 million won (USD 33,000). The commission also acknowledges indirect types of sexual harassment, such as being forced to eat and drink at company dinners, especially at places where commercial sexual

activities are being offered.

LEGAL SETBACKS

¶4. (SBU) A series of legal rulings have reduced the sentences for offenders. In June 2007 an appellate court overturned a lower court ruling convicting a National Assembly representative of sexual harassment, in part because the complainant appealed on behalf of the offender. The appellate court fined Choi Yeon-hee, former Grand National Party Secretary General, five million won (USD 5,300), suspending the lower court's conviction, which sentenced him to six months in prison. In effect, this meant a verdict of not guilty and allowed Choi to keep his seat in the National Assembly.

¶5. (SBU) In March 2006 during a school trip, a male high school teacher snuck into the female students' room at night to touch and tickle them. He also made the students dance on the bus and touched the legs of those who refused. The teacher was dismissed by the school in a decision upheld by the Ministry of Education. When the teacher filed suit to cancel the dismissal, the court agreed saying that it would allow the teacher to be reinstated "so that he could reflect on his wrongs and carry out his duties."

¶6. (SBU) In 2003 a supervisor in a large corporation was found guilty of sexually harassing female subordinates by touching them inappropriately both in and out of the office. He would also call late at night and invite them to his house. A higher court overturned the decision claiming that he was merely trying to "give a sense of familiarity and unity in the workplace."

COMMENT

¶7. (C) South Korea's patriarchal culture creates an environment that tolerates inappropriate behavior towards women and discourages them from filing complaints. Victims have to prove they have been disadvantaged by the actions and overcome a social attitude lenient towards offenders. Many claim that violations of the law are inadvertent and unintentional, and the courts have reinforced the idea that ignorance of the law is an effective defense. As Koreans are increasingly exposed to international norms on the treatment of women in the workforce, expectations of gender equality will undoubtedly rise, creating public understanding and judicial support for the legal reforms already underway.

VERSHBOW